

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1.
 - a. Whether there should be additional reimbursement for date of service 10-18-01.
 - b. The request was received on 8-15-02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Dispute Resolution
 - b. HCFA
 - c. TWCC 62s
 - d. Example EOBs
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60 and Response to a Request for Dispute Resolution
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 9-20-02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 9-23-02. The response from the insurance carrier was received in the Division on 10-4-02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Additional Information submitted by Requestor is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 9-10-02:

"We have submitted claims to the Carrier for date of service 10-18-01 for Jeanie Massager and accessory kit for the Jeanie Massager. Total dollar amount in dispute is \$94.10.... The expected out come [sic] of this issue is that we feel the claims should be paid in full. In accordance with DME Ground Rules Section IX c states invoices should be billed at the provider's usual and customary rate. Reimbursement shall be an amount pre-negotiated between the provider and carrier or if no pre-negotiated amount, the fair and reasonable rate. We have billed the Carrier our usual and customary rate and have

provided the Carrier with examples of audit sheets and/or copies of checks where other carriers in this area have established the \$250.00 for the Jeanie Massager and the \$139.00 charge for the accessory kit as a fair and reasonable amounts as the Commission has not established a MAR for these procedures.”

2. Respondent: Letter dated 10-4-02:
“This dispute involves DOS 10-18-01, CPT Code E1399, a Jeanie Massager and accessory kit.... Carrier based its reimbursement upon a standardized and uniformly applied methodology, here invoice price plus 20%. The methodology used by the HCP to justify its usual and customary charge is no longer favored by the State Office of Administrative Hearings (SOAH) and the HCP fails to otherwise substantiate its price as fair and reasonable. In the absence of this further justification, carrier’s payment should be accepted as fair and reasonable for the DME in question.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 10-18-01.
2. The carrier denied the billed services as reflected on the TWCC 62s as, “R – EXTENT OF INJURY; D – DENIAL AFTER RECONSIDERATION, M – NO MAR REDUCED TO FAIR AND REASONABLE RE-EVALUATION NO ADDITIONAL RECOMMENDED ALLOWANCE SUGGEST SUPPLY HOUSE INVOICE FOR ADDTL RECOMMENDATION.”
3. The following table identifies the disputed services and Medical Review Division's rationale:

| DOS | CPT or Revenue CODE | BILLED | PAID | EOB | MARS | REFERENCE | RATIONALE: |
|---------------|---|----------|----------|---------|------|--|---|
| 10-18-01 | E1399 Genie Massager | \$250.00 | \$125.00 | R,M,D,S | DOP | MFG: Durable Medical Equipment (DME) Ground Rule (IX) (C); Section 413.011 (d), Rules 133.304 (i) & 133.307 (g) (3) (D); 133.307 (j) (1) (F); HCPCS Descriptor | <p>The Carrier initially denied the disputed services as "R". Upon reaudit Carrier accepted the relatedness and denied as "D", "M" and "S".</p> <p>"D" and "S" will not be addressed as they stand for duplicate and supplemental payments. Pursuant to TWCC Rule 133.307 (g) (3) (D), the Requestor has submitted example EOBs reflecting that other carriers have reimbursed the amount billed for the DME items.</p> <p>TWCC Rule 133.304 (i) states, "When the insurance carrier pays a health care provider for treatment(s) and/or service(s) for which the Commission has not established a maximum allowable reimbursement, the insurance carrier shall: (1) develop and consistently apply a methodology to determine fair and reasonable reimbursement amounts to ensure that similar procedures provided in similar circumstances received similar reimbursement; (2) explain and document the method it used to calculate the rate of pay, and apply this method consistently; (3) reference its method in the claim file; and (4) explain and document in the claim file any deviation for an individual medical bill from its usual method in determining the rate of reimbursement."</p> <p>The carrier has reimbursed the provider \$194.59 of a \$389.00 charge. The carrier has indicated in their position statement that the reimbursed amount is reflective of invoice price plus 20%. However, the carrier has failed to support how this methodology discusses, demonstrates and/or justifies that the payment made represents fair and reasonable.</p> <p>The law or rules are not specific in the amount of evidence that has to be submitted for a determination of fair and reasonable. However, in this case, the Respondent has failed to support their position that the amount reimbursed is fair and reasonable (as required by TWCC Rule 133.307 (j) (1) (F). The requestor has provided some documentation to support their position that the amount billed is fair and reasonable</p> <p>Therefore additional reimbursement is recommended in the amount of \$194.41. (\$389.00 billed - \$194.59 already paid = \$194.41.)</p> |
| 10-18-01 | E1399 Accessory Kit for Massager | \$139.00 | \$ 69.50 | R,M,D,S | DOP | | |
| Totals | | \$389.00 | \$194.41 | | | | The Requestor is entitled to additional reimbursement in the amount of \$194.41 |

V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit **\$194.41** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 22nd day of April 2003.

Lesa Lenart
Medical Dispute Resolution Officer
Medical Review Division

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